

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FACEBOOK, INC., et al.,

Plaintiffs,

v.

9 XIU NETWORK (SHENZHEN)
TECHNOLOGY CO., LTD., et al.,

Defendants.

Case No. 19-cv-01167-JST

**ORDER ADOPTING REPORT AND
RECOMMENDATION AND
GRANTING PLAINTIFFS' MOTION
FOR DEFAULT JUDGMENT AND
PERMANENT INJUNCTION**

Re: ECF No. 67

The Court has reviewed Magistrate Judge Alex G. Tse's report and recommendation, ECF No. 85, to grant Facebook's and Instagram's motion for default judgment against Wei Gao, Zhaochun Liu, and 9 Xiu Network (Shenzhen) Technology Co., ECF No. 67.¹ Facebook and Instagram served Defendant 9 Xiu Network with the report and recommendation on October 21, 2021.² ECF No. 86. The fourteen-day period for objections has elapsed, and no objections have been filed. *See* Fed. R. Civ. P. 72(b)(2).

The Court finds the report to be correct, well-reasoned, and thorough, and adopts it in every respect. The Court grants default judgment against Defendants in the amount of \$902,697.03 (consisting of \$600,000 in statutory damages \$273,983.29 in attorneys' fees, and \$28,713.74 in costs). The Court also grants Facebook's and Instagram's request for a permanent injunction, with the modifications described in the report and recommendation. It is entered as

¹ "Facebook and Instagram named several other companies and one other individual as defendants in their complaint. . . . Facebook and Instagram have agreed to voluntarily dismiss all claims against the remaining defendants without prejudice, pursuant to Rule 41(a)(1)(A)(i). *See* ECF No. 79 at 2." ECF No. 85 at 3.

² As noted in the report and recommendation, "Facebook and Instagram need not serve defendants Wei Gao and Zhaochun Liu because further service isn't required under Article 15 of the Hague Service Convention." ECF No. 85 at 14.

1 follows:

2 Defendants and their officers, agents, servants, employees, and attorneys, and all other
3 persons in active concert or participation with them, are immediately restrained and enjoined from:

- 4 a. Engaging in any infringing activity — including advertising, franchising,
5 selling, and offering for sale any goods or services — in connection with the
6 Facebook Trademarks³ or any similar mark;
- 7 b. Engaging in any activity that lessens the distinctiveness or tarnishes the
8 Facebook Trademarks;
- 9 c. Registering, using, or trafficking in any domain name that is identical or
10 confusingly similar to any of the Facebook Trademarks;
- 11 d. Creating or maintaining any Facebook accounts, or otherwise accessing
12 Facebook, in violation of Facebook’s Terms of Service and Community
13 Standards;
- 14 e. Engaging in any infringing activity — including advertising, franchising,
15 selling, and offering for sale any goods or services — in connection with the
16 Instagram Trademarks⁴ or any similar mark;
- 17 f. Engaging in any activity that lessens the distinctiveness or tarnishes the
18 Instagram Trademarks;
- 19 g. Registering, using, or trafficking in any domain name that is identical or
20 confusingly similar to any of the Instagram Trademarks; and

21 \\\

22 \\\

23 _____
24 ³ The “Facebook Trademarks” shall mean the FACEBOOK trademark and service mark, the
25 FACEBOOK (and its design) trademark and service mark, and “f” (and its design) trademark and
26 service mark, including those marks that are the subject of U.S. Registration Nos. 3,122,052;
27 3,881,770; 3,934,743; 4,102,823; and 4,102,824.

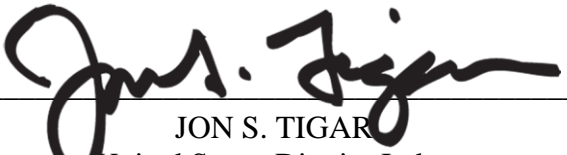
28 ⁴ The “Instagram Trademarks” shall mean the INSTAGRAM trademark and service mark, the
Instagram Camera Logo, and the stylized forms of the INSTAGRAM mark, including those marks
that are the subject of U.S. Registration Nos. 4,795,634; 4,146,057; 4,756,754; 5,566,030;
4,170,675; 4,856,047; 4,822,600; 4,827,509; 4,863,595; 5,019,151; 5,181,545; 5,198,379;
5,299,116; 5,299,118; 5,299,119; and 5,299,120.

h. Creating or maintaining any Instagram accounts, or otherwise accessing Instagram, in violation of Instagram's Terms of Use and Community Guidelines.

The Clerk shall enter judgment and close the file.

IT IS SO ORDERED.

Dated: November 16, 2021


JON S. TIGAR
United States District Judge

United States District Court
Northern District of California